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May 16, 2002

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OFFICE OF THE
EXECUTIVE SECRETARY

VIA HAND DELIVERY

David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

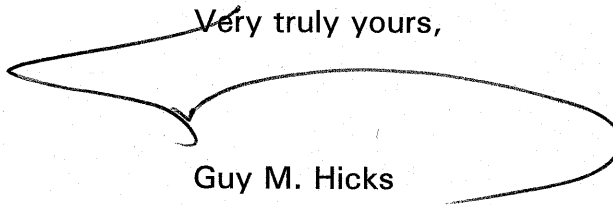
Re: *BellSouth Telecommunications, Inc. Tariff to Modify CCS7 Access
Arrangement*
Docket No. 02-00024

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of BellSouth's *Response to Joint
Petition to Convene a Contested Case Proceeding and to Permit Petitioners to
Intervene*.

Copies of the enclosed are being provided to counsel of record.

Very truly yours,



Guy M. Hicks

GMH:ch

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: *BellSouth Telecommunications, Inc. Tariff to Modify CCS7 Access Arrangement*

Docket No. 02-00024

**RESPONSE OF BELL SOUTH TELECOMMUNICATIONS, INC.
TO JOINT PETITION OF XO TENNESSEE, INC.; US LEC OF
TENNESSEE, INC.; TIME WARNER TELECOM OF THE MID-SOUTH,
L.P.; AND ITC^DELTACOM COMMUNICATIONS, INC. TO
CONVENE A CONTESTED CASE PROCEEDING AND TO
PERMIT PETITIONERS TO INTERVENE**

The Petition to Convene a Contested Case filed on May 10 by XO Tennessee, Inc.; US LEC of Tennessee, Inc.; Time Warner Telecom of the Mid-South, L.P. and ITC^DELTACOM Communications, Inc. (collectively the "Petitioners") should be denied. BellSouth Telecommunications, Inc.'s ("BellSouth") CCS7 Tariff is subject to and meets the requirements of the Tennessee price regulation statutes and should be approved. The Petitioners raise four points in support of their petition, none of which question the application of the price regulation statute to the Tariff. As set forth below, BellSouth has addressed each of these four contentions.

1. Application of Price Regulation Statute

The rates set forth in the CCS7 Tariff are governed by the price regulation statutes, and those statutes allow BellSouth to collect "rates that are less than or equal to the maximum permitted by [Section 65-5- 209]" See T.C.A. § 65-5-

209(b). BellSouth, therefore, may "set rates for non-basic services as the company deems appropriate, subject to the limitations set forth in subsections (e) and (g)"¹ T.C.A. § 65-5-209(h). Although BellSouth has made the business decision to make this tariff filing revenue neutral, there is absolutely no legal requirement for it to have done so. Moreover, as explained in more detail below, the Petitioners have made no attempt to contest the supporting price regulation information submitted to the Authority on January 7, 2002. The Petitioners have not – and cannot – cite to any authority that purportedly grants them the right to continue to use BellSouth's services without paying for them.

2. BellSouth has addressed the contentions of the Petitioners.

- a. The Petitioners contend that CLECs that use a third-party hubbing vendor such as Illuminet will not be able to take advantage of signaling rates in their local interconnection agreement, but will in fact always be charged the higher access rate, not local rates.

Petitioners acknowledge that they understand that BellSouth will bill the party that is purchasing out of the intrastate tariff. See Petition at p. 3. The Petitioners propose, however, that the Tariff be revised to include the following language.

The SS7 per message rates contained in this tariff apply only to intrastate long distance traffic. In the event that a carrier has a local interconnection agreement providing a LATA-wide local calling area, the applicable SS7 per message rates are those contained in the interconnection agreement. See p. 3 of Petition.

¹ The CCS7 services of this tariff clearly are not basic services – they consist of signaling capabilities, not "an access line, dial tone, touch-tone and usage." See T.C.A. § 65-5-208(a)(1).

BellSouth has made a good faith effort to negotiate language acceptable to the Petitioners. BellSouth's proposed language is as follows:

The SS7 per message rates contained in this tariff apply only to intrastate nonlocal traffic. In the event that a carrier that orders signaling service from BellSouth has a local interconnection agreement with BellSouth, the applicable SS7 per message rates that will be billed to that carrier are those contained in the interconnection agreement. For example, in the event that a carrier has a local interconnection agreement providing a LATA-wide local calling area, the applicable SS7 per message rates for that LATA-wide local calling area are those contained in the interconnection agreement.

BellSouth's counter-proposal clearly addresses the Petitioners' concern.

- b. The Petitioners contend that BellSouth should not charge both the IXC and the CLEC for the same messages, resulting in double billing.

The Petitioners acknowledge that BellSouth has already stated that double billing will not occur. (See Petition at p. 3) However, the Petitioners request that the following sentence or similar language be added to the Tariff:

BellSouth will not bill any given SS7 message to more than one customer. Calls that originate from or terminate to an interexchange carrier and are jurisdictionally interLATA will be billed to the interexchange carrier.

BellSouth reiterates that no carrier is billed twice for the same message, for the same connection, or for the same termination.² While BellSouth believes any such tariff revision is unnecessary, BellSouth is willing to agree to the following compromise language.

² This is explained in more detail in BellSouth's March 22, 2002 *Answer to Joint Petition*. See pp. 4-7.

BellSouth will not bill any single SS7 message to more than one customer.

Again, BellSouth's counter-proposal clearly addresses the Petitioners' concern.

- c. The Petitioners state that if BellSouth provides a "bill and keep" arrangement for SS7 for any ILEC, BellSouth should make that option available as a potential alternative for CLECs.

The Petitioners further state that "on information and belief, BellSouth provides such 'bill and keep' arrangements to ILECs pursuant to certain settlement agreements." BellSouth's position is that the Petitioners' rights to "opt-in" to other agreements is governed by the Federal Telecommunications Act and FCC regulations. There is no need to address this in the Tariff as opt-in rights are already governed by applicable law. Moreover, there is no reason to delay approval of the Tariff based upon a hypothetical question.

- d. The Petitioners contend that BellSouth should provide Petitioners will additional billing detail for the TCAP and ISUP messages.

As previously stated to the Petitioners, BellSouth is willing to develop the ability to provide additional billing detail if the Petitioners are willing to pay for this additional service. However, BellSouth wishes to make clear that this not an issue that goes to the validity of the proposed Tariff. BellSouth provides billing in accordance with industry standards, and the Petitioners have not contended otherwise. What the Petitioners are looking for is something that BellSouth is not

required to provide but is willing to develop based on the Petitioners' agreement to pay for that service.

- e. The Petitioners request that the Authority "accept BellSouth's offer, made during the Agenda meeting on May 7, to conduct a review of the tariff to determine whether the filing is 'revenue neutral.'" See Petition at p. 4.

Again, this request does not relate to the validity of the Tariff. BellSouth's good faith offer in that regard stands.³ As stated above, BellSouth filed supporting price regulation information on January 7, 2002 and the Petitioners have not contested that filing. Indeed, Petitioners have made no factual allegations whatsoever regarding the data BellSouth presented to show revenue neutrality. Instead, the Petitioners ask for the right to go on a fishing expedition and that is not an appropriate basis for convening a contested case. The Authority has the discretion to deny a request to convene a contested case and should exercise that discretion here. The real issue the Petitioners have is that they are having to actually pay for CCS7 services that they previously have been receiving but not paying for, and they simply would prefer not to do so.

Conclusion

BellSouth has made numerous good faith efforts to resolve this matter by agreement. It voluntarily refiled the Tariff as a revenue neutral filing and submitted additional supporting information to demonstrate compliance with the price

³ On May 7, 2002, BellSouth's counsel stated in response to the request by counsel for DeltaCom for a three or six month review as to revenue neutrality: "As to Ms. Edwards' proposal that if this tariff is approved this morning that there be a three- or six-month review to verify that the tariff, in fact, worked out to be revenue neutral, I don't think BellSouth would have any objection to that."

regulation statute, and, on two separate occasions, delayed implementation of the Tariff. Additionally, BellSouth did not object to the Authority's subsequent sixty-day suspension of this Tariff. BellSouth has negotiated in good faith with the Petitioners. The CCS7 Tariff meets the requirements of applicable law. BellSouth respectfully requests that the Authority approve the Tariff on May 21, 2002.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

By: 

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CERTIFICATE OF SERVICE

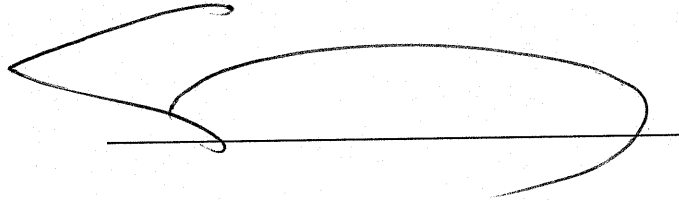
I hereby certify that on May 16, 2002, a copy of the foregoing document was served on the parties of record, via the method indicated:

☐ Hand
☐ Mail
☒ Facsimile
☐ Overnight

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☐ Hand
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Charles B. Welch, Esquire
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A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line and a small upward stroke.